

By: Deuell

S.B. No. 546

A BILL TO BE ENTITLED

AN ACT

relating to the dispensing of certain drugs by physicians.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 158.001, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) Except as provided by Subsection (d), a physician may dispense dangerous drugs to the physician's patients and charge the patients a reasonable fee for dispensing the drugs [~~This section does not permit a physician to operate a retail pharmacy~~] without complying with Chapter 558. Before dispensing a dangerous drug, the physician must notify the patient that the prescription for the dangerous drug may be filled at a pharmacy. A physician may not under this section dispense a Schedule II-V controlled substance as specified under Chapter 481, Health and Safety Code. The board shall adopt rules to establish a procedure for the dispensing of dangerous drugs by a physician.

(d) Subsection (b) does not apply to workers' compensation insurance coverage as defined by Section 401.011, Labor Code.

SECTION 2. Chapter 158, Occupations Code, is amended by adding Section 158.0011 to read as follows:

Sec. 158.0011. DISPENSING OF DANGEROUS DRUGS FOR WORKERS' COMPENSATION INSURANCE COVERAGE IN CERTAIN RURAL AREAS. (a) In this section, "reimbursement for cost" means an additional charge,

1 separate from that imposed for the physician's professional
2 services, that includes the cost of the drug product and all other
3 actual costs to the physician incidental to providing the
4 dispensing service. The term does not include a separate fee
5 imposed for the act of dispensing the drug itself.

6 (b) This section applies to an area located in a county with
7 a population of 5,000 or less, or in a municipality or an
8 unincorporated town with a population of less than 2,500, that is
9 within a 15-mile radius of the physician's office and in which a
10 pharmacy is not located. This section does not apply to a
11 municipality or an unincorporated town that is adjacent to a
12 municipality with a population of 2,500 or more.

13 (c) A physician who practices medicine in an area described
14 by Subsection (b) may:

15 (1) maintain a supply of dangerous drugs in the
16 physician's office to be dispensed in the course of treating the
17 physician's patients; and

18 (2) be reimbursed for the cost of supplying those
19 drugs without obtaining a license under Chapter 558.

20 (d) A physician who dispenses dangerous drugs under
21 Subsection (c) shall:

22 (1) comply with each labeling provision under Subtitle
23 J applicable to that class of drugs; and

24 (2) oversee compliance with packaging and
25 recordkeeping provisions applicable to that class of drugs.

26 (e) A physician who desires to dispense dangerous drugs
27 under this section shall notify both the Texas State Board of

1 Pharmacy and the board that the physician practices in an area
2 described by Subsection (b). The physician may continue to
3 dispense dangerous drugs in the area until the Texas State Board of
4 Pharmacy determines, after notice and hearing, that the physician
5 no longer practices in an area described by Subsection (b).

6 SECTION 3. Subsection (b), Section 551.004, Occupations
7 Code, is amended to read as follows:

8 (b) This subtitle does not prevent a practitioner from:

9 (1) administering a drug to a patient of the
10 practitioner; or

11 (2) supplying dangerous drugs to a patient as provided
12 by Section 158.001(b).

13 SECTION 4. Section 158.003, Occupations Code, is repealed.

14 SECTION 5. (a) The Texas Medical Board shall adopt rules
15 to implement Subsection (b), Section 158.001, Occupations Code, as
16 amended by this Act, not later than December 1, 2011.

17 (b) The changes in law made by this Act apply to the
18 dispensing of a dangerous drug by a physician on or after December
19 1, 2011. The dispensing of a dangerous drug before December 1,
20 2011, is governed by the law in effect at the time the drug was
21 dispensed, and the former law is continued in effect for that
22 purpose.

23 SECTION 6. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2011.